UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

PACA Docket No. D-06-0020

In re: BEST FRESH, LLC,

Respondent

**DEFAULT DECISION AND ORDER** 

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act.

1930, as amended (7 U.S.C. § 499a et seg.) hereinafter referred to as the "Act", instituted

by an amended complaint filed on October 20, 2006, by the Associate Deputy

Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States

Department of Agriculture. The amended complaint alleges that during the period February

6, 2005 through May 23, 2005, Respondent purchased, received, and accepted, in

interstate and foreign commerce, from 7 sellers, 53 lots of perishable agricultural

commodities, but failed to make full payment promptly of the agreed purchase prices in the

total amount of \$411,375.80.

A copy of the amended complaint was mailed by the Hearing Clerk to Respondent by

certified mail on October 24, 2006, and was signed for by Jackie Deane, Respondent's 100 percent

shareholder, on November 7, 2006. Therefore, Respondent was served with a copy of the amended

complaint pursuant to Section 1.147 of the Rules of Practice Governing Formal Adjudicatory

Administrative Proceedings Instituted By The Secretary (hereinafter "Rules of Practice") (7 C.F.R.

Prior to the filing of the amended complaint, a copy of the original complaint was

served upon respondent in October 2006. Respondent did not answer that complaint.

§ 1.147) as of November 7, 2006. Respondent did not file an answer to the amended complaint within the 20 day time period prescribed by Section 1.136 of the Rules of Practice (7 C.F.R. § 1.136). The Complainant has moved for the issuance of a Decision Without Hearing by the Administrative Law Judge, pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). As Respondent failed to answer the amended complaint within the 20 day time period prescribed by the Rules of Practice, and upon the motion of the Complainant for the issuance of a Default Order, the following Decision and Order is issued without further proceedings pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

## FINDINGS OF FACT

- 1. Best Fresh, LLC, (hereinafter "Respondent") is a corporation organized and existing under the laws of the state of Washington. Respondent ceased operating in May of 2005. Its last known business address was, and its current mailing address is, 334 Sunny Slope Heights Road, Wenatchee, Washington 98801-9664.
- 2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 20031473 was issued to Respondent on September 8, 2003. This license terminated on September 8, 2005, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.
- 3. During the period February 6, 2005 through May 23, 2005, Respondent purchased, received, and accepted, in interstate and foreign commerce, from seven (7) sellers, 53 lots of perishable agricultural commodities, and failed to make full payment promptly of the agreed

purchase prices in the total amount of \$411,375.80.

**CONCLUSIONS OF LAW** 

1. The Secretary has jurisdiction in this matter.

2. For the reasons set forth in the above Findings of Fact, the Respondent's

failure to make full payment promptly to seven (7) sellers for 53 lots of perishable agricultural

commodities in the total amount of \$411,375.80 constitutes willful, flagrant and repeated

violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)).

ORDER

A finding is made that Respondent has committed willful, flagrant and

repeated violations of Section 2 of the Act (7 U.S.C. § 499b(4)), and the facts and

circumstances of the violations shall be published.

This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this

Decision will become final without further proceedings 35 days after service hereof unless

appealed to the Secretary by a party to the proceeding within 30 days after service as

provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and

1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

February 7, 2007

PETER M. DAVENPORT

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## Administrative Law Judge